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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 JOSEPH HOLLAND,

9 Plaintiff,

Case No. C17-0170-RSM-MAT

10 v.

REPORT AND RECOMMENDATION

11 CITY OF SEATTLE, *et al.*,

12 Defendants.

13
14 Plaintiff Joseph Holland is currently confined at the King County Jail in Seattle,
15 Washington. On February 2, 2017, plaintiff submitted to this Court for filing a civil rights
16 complaint under 42 U.S.C. § 1983. (*See* Dkt. 1.) Plaintiff identified the following claim in his
17 complaint: “Intense Emotional Distress – in the City of Seattle, County of King Date 11-17-2016.”
18 (*Id.* at 3.) Plaintiff provided no further explanation of his claim in the body of his complaint,
19 though an attachment to the complaint suggested that the claim arose out of an incident in which
20 plaintiff’s hand was caught in a door at the King County Jail and he suffered a broken left ring
21 finger. (*See* Dkt. 1-1 at 1.) Plaintiff identified the City of Seattle, King County, and Corrections
22 Officer Bush as defendants in his complaint, and he requested \$250,000 in damages. (*See* Dkt. 1.)

23 On February 23, 2017, plaintiff submitted an application to proceed with this action *in*

1 *forma pauperis*. (Dkt. 4.) The Court granted plaintiff's application on February 27, 2017, and his
2 complaint was filed. (*See* Dkts. 5, 6.) On the same date, this Court issued an Order declining to
3 serve plaintiff's complaint and granting him leave to file an amended complaint correcting certain
4 specified deficiencies. (Dkt. 7.) On March 17, 2017, the Court received a letter from plaintiff in
5 which he expressed confusion over the fact that he had submitted a form demonstrating his
6 inability to pay the filing fee, but then received an Order from the Court advising him that he was
7 going to be charged anyway. (Dkt. 8.) Plaintiff indicated that he could not, and would not, pay
8 the filing fee while he was incarcerated, and he therefore asked that this action be dismissed. (*Id.*)

9 On March 31, 2017, the Court issued an Order addressing plaintiff's request for dismissal.
10 (Dkt. 9.) The Court explained therein that plaintiff would remain responsible for the filing fee
11 whether or not he chose to proceed with this action, and inquired of plaintiff whether, in light of
12 that fact, he would prefer to proceed with this action. (*Id.* at 2.) Plaintiff was directed to either
13 file an amended complaint consistent with the Order declining to serve his original complaint, or
14 to advise the Court that he wished to dismiss this action, not later than May 1, 2017. (*Id.* at 2-3.)
15 Plaintiff was advised that if he failed to communicate his intention to the Court in a timely fashion,
16 the Court would dismiss this action for failure to prosecute. The Court has received no further
17 communication from plaintiff since the issuance of that Order. Accordingly, this Court
18 recommends that this action be dismissed, without prejudice, for failure to prosecute. A proposed
19 order accompanies this Report and Recommendation.

20 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
21 served upon all parties to this suit within **twenty-one (21) days** of the date on which this Report
22 and Recommendation is signed. Failure to file objections within the specified time may affect the
23 right to appeal. Objections should be noted for consideration on the District Judge's motions

1 calendar for the third Friday after they are filed. Responses to objections may be filed within
2 **fourteen (14) days** after service of objections. If no timely objections are filed, the matter will be
3 ready for consideration by the District Judge on **June 9, 2017**.

4 DATED this 16th day of May, 2017.

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7 Mary Alice Theiler
8 United States Magistrate Judge
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